

Town Council Meeting: 14 February 2011



Town of Garrett Park
PO Box 84
4600 Waverly Avenue
Garrett Park, MD 20896

Regular Meeting of Town Council
Garrett Park Town Hall
10814 Kenilworth Avenue
Garrett Park, MD 20896

MINUTES

Call to Order: Mayor Keller called the meeting to order at 7:35 PM. Present were Councilmembers Mandel, Petito, Schulp, and Wegner. Also present was Administrator Pratt, Barbara Collier of the *Bugle*, and a number of Town residents.

Approval of Agenda: The agenda was adopted as distributed, without objection, with two additional items: A resolution thanking resident Susan Alexander for her work in preserving the trees along the 4800 block of Oxford Street and declaring March 9th to be Susan Alexander Day in Garrett Park; and to add as an action item, the approval of a deed of easement to the Montgomery County Board of Education.

Proclamation: Mayor Keller noted that as well as leading residents in the effort to preserve the trees along Oxford Street, Susan Alexander had been active on many issues within the Town over many years, and that a number of residents had come forward to support installing a bench, with a suitable plaque, at an appropriate location along that stretch of Oxford Street after construction on the new elementary school was completed. Mayor Keller then yielded the floor to Councilmember Wegner, who read the proclamation, which the Council then adopted by acclamation.

Presentations by Residents:

- Argyle Avenue Residents - Sledding Hill issues (Attached). Resident Alex Levy made a presentation regarding the sledding hill proposal, noting that it represents a compromise among residents living on the hill and is the result of a year-long effort. Councilmember Mandel thanked Ms. Levy and the Argyle Avenue residents for leading the process, and for bringing their views to the Council. Mayor Keller stated that the proposals are reasonable, noting that flexibility will be needed to deal with scheduling, conditions on the hill, and equipment issues. The Mayor thanked Ms. Levy and said that the Council would take the proposed policy for the sledding hill under advisement.

- EPA Green Power Partnership - Resident Jennifer Sass spoke to the Council seeking permission for Garrett Park Conservation Action Network (GPCAN) to represent the Town in getting involved in the EPA Green Power Partnership, noting that information available at the EPA website. After discussion it was agreed that the Town Office would work with GPCAN on this.
- Nuclear-Free Zone Presentation - Marion Green announced the February 20th Archives Committee presentation regarding the Nuclear Free Zone at 2:00 PM in Town Hall.
- Film Society - Henri Keller reminded the Council of the Film Society's screening of the movie *The Full Monte* on Friday, March 11th.
- Mr. Roman Miles, formerly of 4507 Strathmore, addressed the Council as a former tenant, who had been forced to leave due to unsanitary conditions at his residence, where a number of rooms had been leased to different tenants, and other difficulties with his landlord. Mr. Miles stated that the Town needs to either adopt its own regulations regarding landlord/tenant relations, or allow Montgomery County to enforce its regulations within the Town. Administrator Pratt noted that this was not the first complaint regarding 4507 Strathmore, and that three or four complaints came to the office every year from people renting rooms or apartments in Town. Mayor Keller pointed out that the County's healthy regulations did apply in Town, and that the Board of Health should be contacted to deal with unsanitary or unsafe conditions in rental properties.
- Demolition Permit Application 20110114-DMA01: Morgan, garage at rear of 4706 Waverly Avenue - Mayor Keller called the hearing to order at 8:20 PM. Pam Morgan made a brief presentation regarding the garage noting that since the property was purchased in 1993, the roof has deteriorated and been damaged by a falling tree. Mrs. Morgan further noted that an engineering report indicated the building was unsound, its foundations needed underpinning, and it was non-compliant internally with current codes.

The Historic Preservation Committee's (HPC) report was made by HPC member Kevin Pope, who stated that the committee had reviewed the project via email, and submitted a written report (attached to these minutes). Mrs. Morgan indicated that she is amenable to the taking of photographs of the structure for the Town's archives, and to trying to demolish the newer parts of the garage in such a manner as to attempt to keep the original structure as intact as possible for photographs prior to complete demolition, as well as being willing to explore the salvage of any useful old materials.

Councilmember Mandel **MOVED**

That demolition permit application 20110114-DMA01 be approved. Councilmember Petito seconded the motion, which was **PASSED** unanimously.

Councilmember's Reports on Areas of Responsibility:

- Mayor Keller noted that Councilmember Irons was absent due to illness, so her report updating work on the Land Use Task Force recommendations and the County Zoning rewrite will be made at the March Council meeting.
- Councilmember Mandel presented the concept of establishment of a 501(c)(3) charitable foundation for donations to the Town, a possibility that arose out of his discussion of funding with the Archives Committee. Mayor Keller noted that the Garrett Park Conservation Trust had obtained 501(c)(3) status, and that such status makes it much easier for donors to support the tax-deductibility of contributions. There was discussion as to how best to proceed, and it was decided that the Council would work on developing a list of issues for further consideration at a future Council meeting. Councilmember Mandel will start the discussion via email.
- Councilmember Schulp reported on a meeting with the consultant who was part of the search for a new superintendent of schools, noting that the meeting was poorly attended considering the importance of the task at hand - only three people were at meeting, but it did provide the participants ample time to interact with the consultant.

Mayor's Report:

- Mayor Keller reported that the Town's tree service contractor, David Gregg, was proceeding rapidly to deal with recent storm damage work, that the fall pruning had been largely completed before the storm, and that the winter tree removals will commence soon. The Mayor noted that Mr. Gregg's quick response to a severely injured tree on Clermont Place probably prevented significant property damage.
- The Mayor reported that the new gutters installed over the Post Office entrance at Penn Place are working as designed, preventing dangerous snow and ice falls.
- Mayor Keller reminded the Council of the March 3rd meeting regarding Pepco reliability sponsored by Montgomery County Councilmember Nancy Floreen at 7:30 PM in the Town Hall, for residents of Garrett Park and Parkside.
- The Mayor informed the Council that the Town was working with Pepco to remove the Siberian elms along the westerly side Kenilworth from Strathmore Avenue to Oxford Street, noting that the trees were all in decline and that working with Pepco offered great potential savings to the

Town. Mayor Keller pointed out that with the removal of the trees and the grinding of their stumps, it would be an excellent opportunity to install a new sidewalk while the school is closed, and that Administrator Pratt was working with the Town's consulting engineers to develop estimates for this work.

- Noting that he would be out of Town, Mayor Keller asked that Councilmembers consider being Acting Mayor for all, or a portion of, March 16th to March 27th, and to contact him regarding their availability.
- Mayor Keller reported that he is seeking \$10,000 from Montgomery County Public Schools to help cover legal costs the Town has incurred developing easements such as the one the Council will consider shortly.
- The Mayor thanked resident Vicky Bailey for her donation to the Town of the bird photographs recently displayed by the Art at Penn Place program.
- Mayor Keller informed the Council that he and Administrator Pratt met with Tara Flynn and Gerilee Bennett regarding the Nursery School's plans to renovate the Community Center, which were presented by the Nursery School's architect, Michael Dowling. The Mayor noted that he had great confidence in Mr. Dowling's work and that the project was proceeding well.

Approval of Minutes:

- Councilmember Wegner **MOVED**

That the minutes of the 01/10/2011 Regular Council Meeting be approved as distributed. Councilmember Petito seconded the motion, which was **PASSED** unanimously.

Action/Discussion:

- MCPS Easement - Mayor Keller referred the Council to copies of an easement over the Town-owned lot 11, block 50 (4800 block of Oxford Street) in their meeting folders (attached to these minutes). The Mayor reported that this easement had been approved by the Board of Education and included significant protections for Town trees along the roadway.

After discussion, Councilmember Phil Schulp **MOVED**

That the Council approves the Deed of Easement from Garrett Park to the Board of Education of Montgomery County and authorizes the Mayor to sign all documents necessary for its completion and recordation. Councilmember Mandel seconded the motion. There was extended discussion with resident Susan Alexander regarding the impact of school traffic and the possibility of trying to get the county to develop a second access to the school. The Mayor then called for the vote on the motion, which **PASSED** unanimously

- Adoption of Public Information Act (PIA) Regulations - Mayor Keller noted that this is the second vote to be taken on the proposed regulations, which were introduced at the January meeting and posted for public comment. The Mayor noted that the Town had not received any comments on the regulations since their introduction and asked for a motion for adoption of the regulations.

Councilmember Wegner **MOVED**

That the Public Information Act Regulations be adopted as introduced. Councilmember Mandel seconded the motion, which **PASSED** unanimously after discussion.

- Ordinance 2011-02: Addition of definition of term "Business Entity" to Chapter 1, Section 102 of the GP Code of Ordinances (Definitions and Rules of Construction) - Mayor Keller noted that this ordinance simply established a definition for the term "business entity" in the definitions section of the Code of Ordinances, referencing the definition in the Maryland Code, and asked for a motion to introduce the ordinance.

Councilmember Petito **MOVED**

That Ordinance 2011-02 (attached to these minutes) be introduced as distributed. Councilmember Wegner seconded the motion, which **PASSED** unanimously.

- Introduction of Ordinance 2011-01: Revision of Chapter 2 of the GP Code of Ordinances (Elections) - Mayor Keller noted that this ordinance was intended to bring the registration requirements and conduct of Town election procedures laid out in Chapter 2 of the Code of Ordinances into conformity with certain Maryland laws and current state election practices, that a draft had been circulated for review by Councilmembers, and that several minor changes had been made in the version handed out at the meeting. The Mayor asked for a motion to introduce Ordinance 2011-01 as distributed at the meeting.

Councilmember Mandel **MOVED**

That Ordinance 2011-01 be introduced as distributed at the meeting. Councilmember Wegner seconded the motion. Councilmember Petito suggested that Section 201(d) be changed by adding the words "prior to the date of said election" at the end of the subsection; that Section 201(c)(5)(iv)(C) be changed by deleting the words "by the agent" at the end of subsection; and that Section 205(a) be changed so that the word "insure" was changed to "ensure." The mover and seconder accepted the changes and they were incorporated into the draft being considered, without objection.

Councilmember Schulp **MOVED**

That the proposed ordinance 2011-01 be amended by adding as an additional subsection to Section 201(c)(5): "(iii) may not be an employee of the Town or an elected official of the Town", adjusting the numbers of the following subsections accordingly. Councilmember Petito seconded the motion. Extended discussion ensued. Administrator Pratt pointed out

that the Judges of Election were appointed officials of the Town. Councilmember Petito asked if it was appropriate to preclude the excluded individuals from acting as agents for family members, and it was agreed without objection to add the language “except for immediate family members” to the proposed new subsection so that it would read “(iii) may not be an employee of the Town or an elected official of the Town, except in the case of immediate family members.” Councilmember Mandel stated that he objected to the implied lack of trust in Town appointed and elected officials and would oppose the amendment to the ordinance, and if the amendment passed he would oppose the ordinance itself. Mayor Keller asked the Clerk-Treasurer to call the roll, and the vote was tied, with Councilmembers Mandel and Wegner voting Nay and Councilmembers Petito and Schulp voting Aye. The Mayor cast the tie-breaking vote of Aye, and the amendment was **PASSED**

The Mayor then called for the vote on the amended motion, which **PASSED**, with Councilmembers Petito, Schulp, and Wegner voting Aye, and Councilmember Mandel voting Nay. The introduced ordinance is attached to these minutes.

Town Administrator Report:

- Monthly Financial Report - Administrator Pratt reviewed the monthly financial report with the Council, noting the improving end-of-year cash projection.
- Permits Report - Administrator Pratt reviewed the permits report with the Council, noting the only new permit filed for was the Morgan demolition.

Adjournment: The meeting adjourned at 10:15 PM

Respectfully submitted,

[TOWN SEAL]

Edwin Pratt, Jr.

Edwin Pratt, Jr., Clerk-Treasurer

Argyle Snow Proposal (December 20, 2010)

This proposal is designed to continue the tradition of sledding on Argyle, while improving safety for both sledders and residents of the hill. The proposal deals exclusively with snowfalls when there is sufficient snow to close Argyle for sledding. When the Town deems there is insufficient snowfall for sledding, Argyle will be cleared in the same manner as other Town streets.

We suggest a trial period of 2 years, or 4-6 snows that would result in the closing of Argyle for sledding, to assess the effectiveness of the proposal and to modify it if necessary and appropriate.

Snow Plowing and Clearing

1. The Town will not create berms at any Argyle intersections.
2. The Town will ensure a clear path to drains at the bottom of Argyle to avoid pooling and icy conditions from Argyle snowmelt.
3. The Town will work with Argyle residents to provide parking areas (plowed and treated to the extent possible) reserved for Argyle residents at all Argyle intersections.
4. The Town will act quickly to remedy icy conditions that create unsafe situations on Argyle.
5. The Town will completely plow Argyle at the end of the fourth or the beginning of the fifth day after snowfall stops.
6. For snows expected to be above 8-9 inches, the Town will pre-plow with the aim of limiting the snow that accumulates on Argyle to approximately 8-9 inches.

Signage and Barriers

7. When Argyle is closed for sledding, the Town will provide prohibitive, yet moveable street barriers at all Argyle intersections, such as those shown at <http://www.stanchiondepot.com/barrier.html?gclid=CLKT6tHR6qUCFRVx5Qoda1NzqQ>.
8. The Town will improve signage (for example, "Street Not Plowed") at all Argyle intersections, as well as at the Montrose/Waverly intersection.

Communications and Monitoring

9. The Town will request that the Kensington Fire Station maintain a permanent record of the Argyle street closing so that rescue teams are prepared if called to the street for an emergency.
10. The Town will request Black Market to provide town-exiting instructions/map to patrons when Argyle is closed.

11. The Town will provide emergency contacts so that Argyle residents can report emergency situations.

12. The Town will monitor conditions on Argyle during snowstorms and when unplowed, and take action to assist Argyle residents, or others stranded on the hill, if necessary.

4706 Waverly Avenue, Garage Demolition Report of the Historic Preservation Committee February 14, 2011

The Town has received a request for a demolition permit for a garage behind the house at 4706 Waverly Avenue, historically known as the Grace Spriggs House, after the owner whose desire for a septic system lead to the incorporation of Garrett Park. Although the garage sits directly behind the house, it is actually on another lot—the 23,000 square-foot vacant Lot 15 which lies to the east of the house and then jogs behind it.

The building in question began life as a one-story wooden structure with attic. It was enlarged to become a three-car garage. According to owner, Pam Morgan, the two automobile bays to the east were added in the late 1950s to accommodate the owner's large antique Rolls Royce. The bay on the west was added by the Huffman family to provide a space to work on cars. These additions were made of cinder block with shingled roof. The Huffman's also added a wood and cinderblock addition on the rear of the structure. The original wooden building has been completely encased by these later additions. The cinderblock additions are in deteriorated condition, especially the bay on the west where a falling tree put a hole in the roof. Cracks are visible in the walls, and Pam states that a structural engineer determined that the foundations are also inadequate, and that all of the roofs are in bad condition.

Despite all these changes, the original wooden building seems to have survived remarkably in tact within the cocoon of additions. It is not known when the original building was erected. There is no information in the Lot and Block file and old photos were not taken at an angle to show the site of the building. The building features a steep gable roof. The walls are covered with German siding with a deep concave scoop at the top of each board. There appears to have been a large door on the gable end facing the house. Above this door is a window topped by a protruding beam with an iron ring for hoisting—presumably this was for bringing items up for storage in the attic which has a solid floor. In the gable around the window are decorative fish scale shingles. There was a window on the east wall of the original building and another opening opposite it on the west wall. The use of the building is

not known. Its architectural features seem to relate it to the late Victorian period. Its size and large door opening give it the characteristics of a garage. Cars were in use in Garrett Park before the turn of the 20th century, so it is possible that this was a very early garage. The Morgan's question whether there is enough depth to accommodate an automobile. It may, therefore, have been a storage shed.

Whatever its use, the original wooden part of this structure seems to be an example of a Victorian era outbuilding, of which there are few remaining in Town. It would be nice if the possibility of retaining the wooden portion of the building could be explored. But this probably would not fit into the Morgan's plans for a new garage in that space. Therefore, the committee would like to request that, once the building has been cleared out prior to demolition, further photographs be taken of the old part of the building from the inside. If the demolition proceeds in such a way that the original building is exposed without its additions, it would be good to have exterior photographs at that point as well.

DEEDS OF EASEMENT

**Parcel IDs: 04-00060903
04-00045975
04-00045805
04-00045986
04-00045793**

DEED OF EASEMENT

(from Garrett Park to the Board of Education of Montgomery County)

THIS DEED OF EASEMENT made this ____ day of _____, 2011, by and between Garrett Park, a municipal corporation of the State of Maryland (hereinafter referred to as the "Town"), with an address of P. O. Box 84, 4600 Waverly Avenue, Garrett Park, Maryland 20896 and the Board of Education of Montgomery County, a body politic and corporate under Maryland law (hereinafter referred to as the "Board" or the "Board of Education") with an address of 850 Hungerford Drive, Rockville, Maryland 20850.

WITNESSETH

WHEREAS, the Town is the owner of a certain parcel of land lying, situate, and being in Election District No.: 4, Montgomery County, Maryland and known as Lot 11, Block 50, as shown on a Plat of Subdivision titled "Section 2, Garrett Park", recorded in Plat Book A at plat 27 among the Land Records of Montgomery County, Maryland, being part of that parcel of land conveyed by Mabel E. Wells and Alton L.

Wells, her husband, by a certain Deed dated May 7, 1935, as recorded among the Land Records of Montgomery County, Maryland, in Liber 592 at folio 346 ("Town Parcel"); and

WHEREAS, the Board of Education is the owner of an adjacent tract of land consisting of the following: Parcel N992, on tax map HQ121, identified as Parcel "B" on Plat Number 4914 titled "Garrett Park, School Site"; Parcel N898, on tax map HQ121, identified as Parcel "C" on Plat Number 4914; Parcel N20, on tax map HP123, being a part of the tract identified as Parcel "A" on Plat Number 4914; being the same parcel of land conveyed to the Board by the Sisters of the Holy Cross Hospital Association by Deed dated June 13, 1957, and recorded among the Land Records of Montgomery County, Maryland, in Liber 2360, at folio 593; and Parcel P990, on tax map HQ121, being the same parcel of land conveyed to the Board by the Maryland-National Capital Park and Planning Commission (hereinafter "Commission") by Deed dated September 2, 1959, and recorded among the Land Records of Montgomery County, Maryland, in Liber 2651, at folio 174 (collectively the "Board Property"), and which parcels are improved with the Garrett Park Elementary School (the "Elementary School"); and

WHEREAS, in undertaking a modernization of the Elementary School the Board has requested certain utility and access easements across the Town Parcel in order to provide utilities, services, and access to the Board Property; and

WHEREAS, there are valuable large trees on and immediately adjacent to the Town Parcel, the continued health of which are of great importance to the Town; and

WHEREAS, the Town has agreed to the Board's request for utility and access easements, subject to the terms and provisions set forth hereinafter.

NOW, THEREFORE, this Deed of Easement witnesseth, that in consideration of the premises, the terms and provisions hereinafter set forth, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree to the following:

1. The Recitals are incorporated herein as if fully set forth, and are not deemed to be merely explanatory or prefatory hereto.

2. The Town does hereby grant to the Board, its successors and assigns, an access and utility easement fifty feet (50') wide across the Town Parcel ("Easement Area") as more particularly described in Exhibit A attached hereto and made a part hereof and as more particularly shown on the drawing labeled Exhibit B attached hereto and made a part hereof, subject to the following:

a. The easement being created shall be used by the Board, its successors and assigns, for a two-fold purpose, (1) to provide ingress/egress to the Board's Property through the Town's Parcel, and (2) to provide for the construction, installation, and maintenance of utilities to serve the Board Property; and

b. The Board will provide the Town with signed plans and specifications for any work that the Board and/or its contractors propose to perform in the Town Parcel at least ninety (90) days prior to any such proposed work; and

c. At least sixty (60) days prior to any Board activity that may affect trees both within the easement area and within thirty (30) feet from same, the

Board shall provide to the Town a certified arborist's report showing how and by what measures the trees are to be protected from harm; and

d. The Board and its contractors shall not conduct any work within or adjacent to the Town Parcel Easement Area that will in any fashion affect trees without first having obtained written agreement from the Town; and

e. All excavation and other activities authorized by this Deed of Easement shall be performed in a manner that is consistent with the recommendations in the arborist's report to protect the trees within the Easement Area and the trees on adjacent properties; and

f. Whenever possible, the Board and its contractors shall employ nondestructive technologies (i.e., technologies that do not require open excavation), in the repair and maintenance of the driveway and utilities, on or in the Town Parcel; and

g. In the event any trees are damaged by excavation or other activities permitted by this Deed of Easement, the Board shall, if requested by the Town, take appropriate action to ameliorate such damage or, if requested by the Town, remove and replace such tree(s) with new tree(s) with a minimum caliper of three (3) inches at the time of planting, within six (6) months of such request, at no cost to the Town; and

h. All costs of construction, installation, and maintenance of the utilities shall be at the cost of the Board and any adjacent property owner benefitting from the utilities, as well as by their successors and assigns; and

i. All costs of construction, installation and maintenance of the driveway resulting from Board action shall be at the cost of the Board; and

j. The Board shall maintain liability coverage under its self-insurance program during the installation, construction, and maintenance of the utilities in a minimum amount as required by Maryland law governing county boards of education, and shall require its contractors and sub-contractors performing services in the Easement Area to maintain liability coverage in an amount not less than One Million Dollars; and

k. After completion of construction and any periodic maintenance, the Board shall return the surface of the property to substantially the same condition as existed prior to such construction, installation, and maintenance, including the re-paving or re-seeding of the Easement Area, if necessary.

3. The terms of this Deed of Easement shall be binding upon and shall inure to the benefit of the Board, its successors and assigns and to the Town, its successors and assigns.

IN WITNESS WHEREOF, the Board and the Town have caused this Deed of Easement to be duly executed on the date first herein mentioned.

NOTE: Signature Pages Follow. True copy of original on file in Town Office.

Exhibit "A"
Access and Utility Easement
From
The Town of Garrett Park
to
The Montgomery County Board of Education
Election District No. 4
Montgomery County, Maryland

Being a piece or parcel of land lying, situate and being in Election District No. 4, Montgomery County, Maryland, said piece or parcel of land being all of that parcel of land conveyed by American Security and Trust Company by that certain deed dated July 22, 1927, as recorded among the Land Records of Montgomery County, Maryland in Liber 434 at Folio 168, being more particularly described as follows:

Beginning for said piece or parcel of land at point on the westerly right of way line of Kenilworth Avenue (50 feet wide), said point also being the northeast corner of Lot 11, Block 50, Section 2, Garrett Park, according to the plat of subdivision recorded among said LAND Records in Plat Book A at Plat 27, said point also having coordinate values of Northing 497750.0118 Easting 1285321.6508 in the Maryland State Coordinate System NAD83, thence running with said westerly right of way line and with the outline of said 434 at Folio 168 in the meridian of said Maryland State Coordinate System

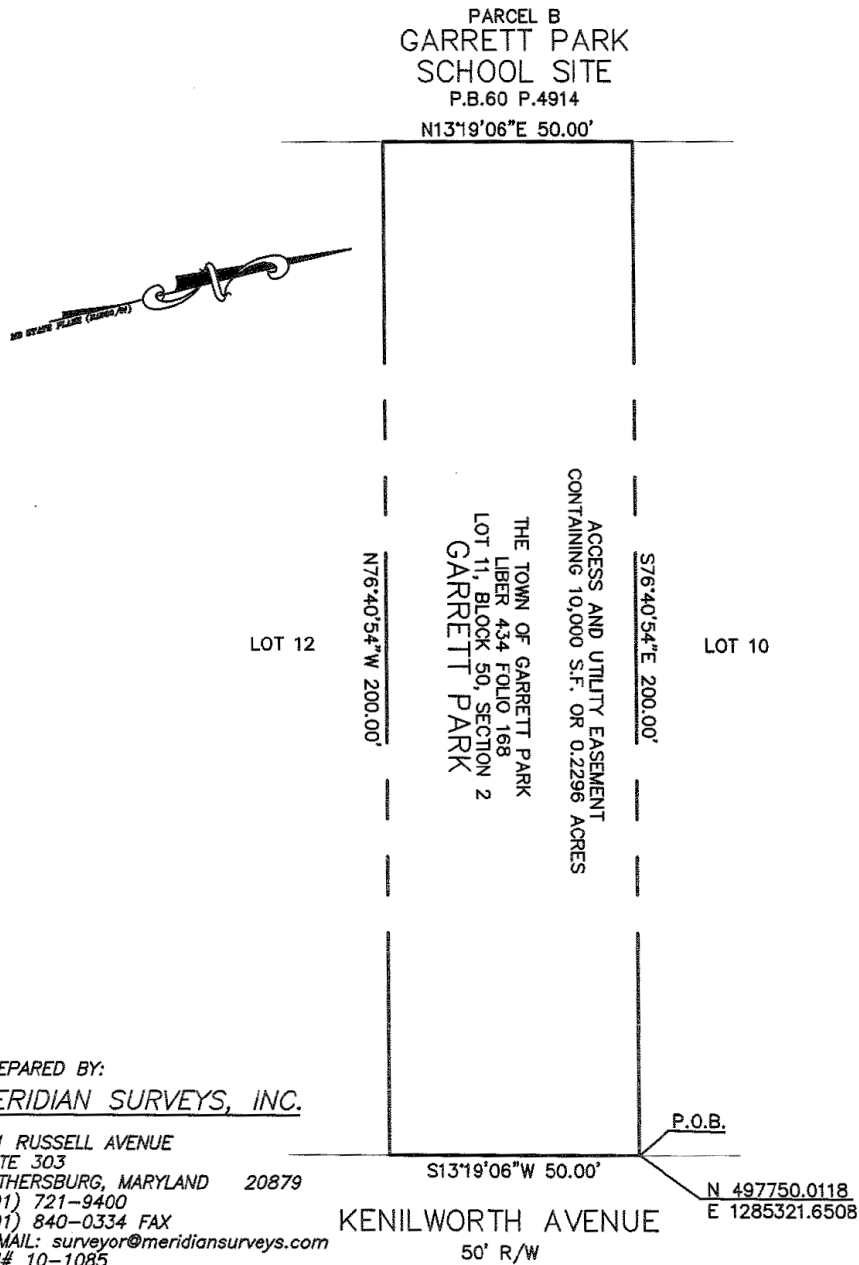
1. South $13^{\circ}19'06''$ West 50.00 feet to a point, thence leaving said Kenilworth Avenue and continuing with the outline of said Liber 434 at Folio 168
2. North $76^{\circ}40'54''$ West 200.00 feet to a point on the South $13^{\circ}21'08''$ West 358.60 line of Parcel B, according to the plat of subdivision entitled "Plat of Garrett Park School Site" as recorded among the said Land Records in Plat Book 60 at Plat No. 4914, said point being 50.00 feet from the beginning thereof, thence continuing with the outline of said Liber 434 at Folio 168 and reversely with the outline of said Parcel B
3. North $13^{\circ}19'06''$ East 50.00 feet to a concrete monument found, thence leaving said Parcel B and continuing with the outline of said Liber 434 at Folio 168
4. South $76^{\circ}40'54''$ East 200.00 feet to the point of beginning, containing 10,000 square feet or 0.2296 acres of land.



A handwritten signature in black ink, appearing to read "Stephen J. Wenthold".

Stephen J. Wenthold
Professional Land Surveyor
Maryland Reg. No. 10767

EXHIBIT B
SKETCH OF A ACCESS AND UTILITY EASEMENT
THE TOWN OF GARRETT PARK
TO
THE MONTGOMERY COUNTY BOARD OF EDUCATION
ELECTION DISTRICT NO. 4
MONTGOMERY COUNTY, MARYLAND
SCALE 1"=30' MARCH, 2010



Rules on Public Information Act
(MD Title 10, Subtitle 6, Part III of the State Government Article)

Town of Garrett Park General Regulations

Chapter 01: Public Information Act Requests

Authority: State Government Article, §§ 10-611 through 10-628.
Annotated Code of Maryland

.01 Scope.

This chapter sets out procedures under the Public Information Act for filing and processing requests to the Town for the inspection and copying of public records of the Town.

.02 Policy.

It is the policy of the Town of Garrett Park to facilitate access to public records of the Town, when access is allowed by law, without undue cost or delay.

.03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined:

1. "Act" means the Public Information Act, State Government Article, §§ 10-611 through 10-628, Annotated Code of Maryland.
2. "Applicant" has the meaning stated in §10-611(b) of the Act.
3. "Custodian" has the meaning stated in §10-611(c) of the Act.
4. "Town" means the Town of Garrett Park.
5. "Official custodian" has the meaning stated in §10-611(d) of the Act.
6. "Public record" has the meaning stated in §10-611(g) of the Act.
7. "Clerk" means the Clerk-Treasurer of the Town of Garrett Park.
8. "Working day" means a day other than Saturday, Sunday, or a State holiday.

.04 Clerk as Official Custodian.

Unless otherwise provided by law, the Clerk is the official custodian of the public records of the Town.

.05 Who May Request Public Records.

Any person may request to inspect or copy public records of the Town.

.06 Necessity for Written Request.

A. Inspection.

1. Except as otherwise provided in this chapter, the Clerk shall make public records of the Town available for inspection by an applicant

without demanding a written request.

2. The Clerk shall require a written request if the Clerk reasonably believes that:
 - a. The Act or any other law may prevent the disclosure of some or all of the requested public records to the applicant; or
 - b. A written request will materially assist the Town in responding.

B. Copies

1. If the applicant requires one or more copies of any public record of the Town, the custodian may require a written request.

.07 Content of Written Request.

A written request shall:

- A. Contain the applicant's name and address;
- B. Be signed by the applicant; and
- C. Reasonably identify, by brief description, the public record sought.

.08 Addressee.

A request to inspect or copy a public record of the Town shall be addressed to the Clerk. If the Clerk is not the custodian of the requested records, the Clerk shall forward the request to the custodian; provided that the Clerk is not obligated to forward requests that seek public records of other jurisdictions.

.09 Response to Request.

- A. If the Clerk decides to grant the request for inspection, the custodian shall produce the public record for inspection:
 1. Immediately; or
 2. Within a reasonable time period, not to exceed 30 days after the date of the request, if that period is needed to retrieve the public record and conduct any necessary review.
- B.
 1. If the Clerk decides to deny the request for inspection:
 - a. The Clerk shall do so within 30 days after the request; and
 - b. Immediately notify the applicant of the denial.
 2. If the request is denied, the Clerk shall provide the applicant, at the time of the denial or within 10 working days, a written statement that gives:
 - a. The reasons for the denial;
 - b. The legal authority for the denial; and
 - c. Notice of the remedies available for review of the denial.
- C. If a requested public record is not in the custody or control of the Town, the Clerk shall, within 10 working days after the receipt of the request, notify the applicant;
 1. That the Town does not have custody or control of the requested public record; and

2. If the Clerk knows:
 - a. The name of the custodian or possible custodian of the public record; and
 - b. The location or possible location of the public record.
- D. With the consent of the applicant, any time limit imposed by §§A through C of this regulation may be extended for an additional period of up to 30 days.

.10 Notice to and Consideration of Views of Person Potentially Affected by Disclosure.

- A. Unless prohibited by law, the Clerk may provide notice of a request for inspection or copying of any public record of the Town to any person who, in the judgment of the Clerk, could be adversely affected by disclosure of that public record.
- B. The Clerk may consider the views of a potentially affected person before deciding whether to disclose the public record to an applicant.

.11 Public Record Temporarily Unavailable.

If a requested public record of the Town is not immediately available for inspection or copying, the Clerk shall promptly:

- A. Notify the applicant that the public record is not immediately available; and
- B. Schedule a date within a reasonable time for inspection or copying.

.12 Public Record Destroyed or Lost.

If a requested public record of the Town has been destroyed or lost, the Clerk shall promptly:

- A. Notify the applicant that the public record is not available; and
- B. Explain the reason why the public record cannot be produced.

.13 Review of Denial.

- A. If the Clerk denies a request to inspect or copy a public record of the Town, the applicant may, within 30 days after receipt of denial, request an administrative hearing before the Town Council.
- B. If the hearing results in a total or partial denial of the request, the applicant may file an appropriate action in the circuit court under §10-623 of the Act.
- C. If the applicant does not request a hearing, the applicant may file an action for judicial enforcement under §10-623 of the Act without exhausting that administrative remedy.

.14 Disclosure Against Public Interest.

- A. Denial Pending Court Order.
 1. If, in the opinion of the Clerk, disclosure of a public record of the Town otherwise subject to disclosure under the Act would do substantial injury to the public interest, the Clerk may temporarily

deny the request while seeking to obtain a court order allowing nondisclosure.

2. The temporary denial shall be in writing.

B. Circuit Court Review.

1. Within 10 working days after the denial, the Clerk shall apply to the appropriate circuit court for an order permitting continued denial or restriction of access.

2. Notice of the Clerk's complaint shall be served on the applicant in the manner provided for service of process by the Maryland Rules of Procedure.

.15 Fees

A. The fee schedule for copying and certifying copies of public records of the Town is as follows:

1. Copies of paper documents.

a. Letter size: 20 cents per single-sided black & white copy.

b. Legal size: 30 cents per single-sided black & white copy.

c. Tabloid size: 50 cents per single-sided black & white copy.

d. Large Plan: \$2.50 per copy.

e. Double-sided copy fee is twice the single-sided copy fee.

f. Color copy fee is twice the black & white copy fee.

g. The fee for each copy made otherwise shall be based on the actual cost of the copy.

2. Copies of tape cassettes and disks.

a. There will be a charge of \$2.50 per tape cassette or disk.

b. The person requesting copies of tape cassette must contact the Clerk to ascertain the number of tape cassettes required to fulfill the request.

c. Fees for tape cassette recordings must be paid in advance.

3. Certification of Copies. If an applicant requests that a copy of a public record be certified as a true copy, an additional fee of \$1 per page (or if appropriate, per item) shall be charged.

4. Minimum Fee. No charge will be made if the total charge is \$1.00 or less.

B. Notwithstanding §A of this regulation, if the fee for copies or certified pages of any public record of the Town is specifically set by law other than the Act or this regulation, the Clerk shall charge the prescribed fee.

C. If the Clerk cannot copy a public record within the Town Office, the Clerk shall make arrangements for the prompt reproduction of the record at public or private facilities outside the Town Office. The Clerk shall:

1. Collect from the applicant a fee to cover the cost of reproduction; or

2. Direct the applicant to pay the cost of reproduction directly to the facility making the copy.

D. Before copying a public record of the Town, the Clerk shall estimate the cost of reproduction and either:

1. Obtain the agreement of the applicant to pay the cost; or

2. Require prepayment of the cost.
- E. Except as provided in §F of this regulation, the Clerk may charge a reasonable fee for the time that an official or employee of the Town spends:
 1. To search for requested records; or
 2. To prepare public records for inspection and copying.
 3. The fee charged by the Town for the time that an official or employee of the Town spends to search for requested records and/or to prepare public records for inspection and copying are as follows:
 - a. The hourly charge for the Clerk is \$30 per hour.
 - b. The hourly charge for the Assistant to the Clerk is \$20 per hour.
- F. The Clerk may not charge a search or preparation fee for the first 2 hours that an official or employee of the Town spends to respond to a request for public records. If the Clerk believes that search and preparation activities to respond to a request shall exceed 2 hours, the Clerk shall promptly provide the applicant with a written estimate of the amount of time needed to respond and the cost of such activities.
- G. Waiver or Reduction of Fee.
 1. The Clerk may waive or reduce any fee set under this regulation if:
 - a. The applicant requests, in writing, a waiver or reduction; and
 - b. The Clerk determines that the waiver or reduction is in the public interest.
 2. The Clerk shall consider, among other relevant factors, the ability of the applicant to pay the fee.
- H. If the applicant requests that copies of a public record of the Town be mailed or delivered to the applicant or to a third party, the Clerk may charge the applicant for the cost of postage or delivery.
- I. The Town shall not be obligated to conduct search or preparation activities or provide copies if the applicant declines to pay the costs or fees as specified in this section .15.

.16 Time and Place of Inspection.

- A. An applicant may inspect any public record of the Town that the applicant is entitled to inspect during normal working hours of the Town Office.
- B. The inspection shall occur where the public record is located, unless the Clerk, after taking into account the applicant's expressed wish, determines that another place is more suitable and convenient.

Chapter 02: Correction or Amendment of Public Records

Authority: Town's authority to adopt regulations.

State Government Article, §§ 10-611 through 10-628. Annotated Code of Maryland.

.01 Scope.

This chapter sets out procedures under which a person in interest may request the correction or amendment of public records of the Town.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

1. "Act" means the Public Information Act, State Government Article, §§ 10-611 through 10-628, Annotated Code of Maryland.
2. "Applicant" has the meaning stated in §10-611(b) of the Act.
3. "Custodian" has the meaning stated in §10-611(c) of the Act.
4. "Town" means the Town of Garrett Park.
5. "Person in interest" has the meaning stated in §10-611(e) of the Act.
6. "Official custodian" has the meaning stated in §10-611(d) of the Act.
7. "Public record" has the meaning stated in §10-611(d) of the Act.
8. "Clerk" means the Clerk-Treasurer of the Town of Garrett Park.
9. "Working day" means a day other than Saturday, Sunday, or a State holiday.

.03 Who May Request.

A person in interest may request that the Town correct or amend any public record that:

A. The Town keeps; and

B. The person in interest is authorized to inspect.

.04 Contents of Request.

A. A person in interest shall make a request to correct or amend a public record in writing.

B. The request shall:

1. Identify the public record to be corrected or amended;
2. State the precise correction or amendment requested;
3. State the reason for the correction or amendment; and
4. Include a statement that, to the best of the requester's belief, the public record is inaccurate or incomplete.

.05 Addressee.

A request to correct or amend a public record of the Town shall be addressed to the Clerk, Town of Garrett Park, PO Box 84, Garrett Park, MD 20896.

.06 Return of Nonconforming Request.

A. The Town shall accept a request to correct or amend a public record when it is received if it reasonably complies with Regulations .04 and .05 of this chapter.

B. If the request does not reasonably comply with Regulations .04 and .05 of this chapter, the Town shall return the request to the requester with:

1. An explanation of the reason for the return; and

2. A statement that, on receipt of a request that reasonably complies with Regulations .04 and .05 of this chapter, the request will be accepted.

.07 Response to Request.

Within 30 days after the Town receives a request for correction or amendment that reasonably complies with Regulations .04 and .05 of this chapter, the Clerk shall:

- A. Make the requested correction or amendment, and inform the requester in writing of the action; or
- B. Inform the requester in writing that the Town will not:
 1. Make the requested correction or amendment and the reason for the refusal; or
 2. Act on the request because
 - a. The requester is not a “person in interest”;
 - b. The requestor is not authorized to inspect the record; or
 - c. Of any other reason authorized by law.

.08 Refusal of Request

If the Town refuses to make a requested correction or amendment, a person in interest may file with the Town a concise statement of the reasons for:

- A. The requested correction or amendment; and
- B. The person’s disagreement with the refusal of the Town to make the correction or amendment.

.09 Requirements for Statement of Disagreement.

The statement submitted under Regulation .08 of this chapter shall:

- A. Be on pages no larger than 8½ x 11 inches in size;
- B. Use only one side of each page; and
- C. Consist of no more than 5 pages.
- D. Be signed by the person in interest.

.10 Providing Statement of Disagreement.

If a person in interest files a statement of disagreement concerning a public record under Regulations .08 and .09 of this chapter, the Town shall provide a copy of the statement when the Town discloses the public record to a third party.

.11 Administrative Review.

- A. A person may request administrative review by the Town Council under this regulation if the Town:
 1. Has refused the person’s request to correct or amend a public record under Regulation .07 of this chapter;

- ~~3~~.2. Has rejected the person's statement of disagreement under regulation .08 of this chapter; or has not provided a statement of disagreement to a third party under regulation .10 of this chapter.
- B. A request for review shall be filed with the Clerk within 30 days after the requester is advised of the Town's action.

ORDINANCE 2011-02

WHEREAS, Section 204 Filing of Disclosure Statement of the Garrett Park Code of Ordinances (the Code), Subsection (a) uses the term "business entity"; and

WHEREAS, The term "business entity" is not described in Section 102 Definitions and Rules of Construction; and

WHEREAS, The Council desires to insure clarity of meaning in the Code, as well as conformity with Maryland law;

NOW, THEREFORE, the Town Council of Garrett Park adopts the following Ordinance.

An Ordinance to Add a Definition of Terms Used to the Garrett Park Code of Ordinances

Chapter 1, Section 102, Definitions and rules of Construction, is hereby amended to add the following language: Business entity. The term "business entity" as used herein shall be defined in accordance with the provisions of the Election Law Article, Section 14-101(c) of the Annotated Code of Maryland, 2010 Replacement Volume, as amended.

ORDINANCE 2011-01

WHEREAS, Section 78-22 of the Town Charter establishes that “The council, by ordinance, shall adopt and enforce any provisions necessary to establish and maintain a system of permanent registration and provide for a re-registration when required”; and

WHEREAS, Section 78-28, Regulation and Control by Council states “The council has the power to provide by ordinance in every respect not covered by the provisions of this Charter for the conduct of registration; nomination; town elections; the content of the ballot; and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud”; and

WHEREAS, The Council desires to bring the registration requirements and conduct of election procedures laid out in Chapter 2 of the Code of Ordinances into conformity with certain Maryland laws and current state election practices;

NOW, THEREFORE, the Town Council of Garrett Park, finding that it would be in the interest of the Town and its residents to clarify and reform the Town’s voter registration requirements and election procedures, hereby adopts under the authority granted to the Council by the Garrett Park Charter as referenced above, the following Ordinance.

An Ordinance to Clarify and Reform the Town of Garrett Park’s Voter Registration Requirements and Election Procedures

Remove the current Chapter 2 Elections of the Garrett Park Code of Ordinances in its entirety and to replace it with a new Chapter 2 as presented below:

CHAPTER 2

ELECTIONS

Section 201. Universal Voter Registration

(a) An individual who is registered to vote with Montgomery County and who resides within the corporate limits of Garrett Park is automatically eligible to vote in Town elections.

(b) An individual who is not a citizen of the United States and who meets the qualifications of Section 78-20 of the Charter of the Town of Garrett Park is eligible to vote in Town elections.

(c) No person shall be allowed to cast a vote at any Town election unless he or she shall have been registered at least 30 days prior to the date of said election.

(d) Any person voting at any election must have been a resident of the Town for at least 30 days prior to election.

Section 202. Absentee Voting

(a) Any qualified voter may vote as an absentee voter.

(b) Applications for Absentee Ballots. A registered voter desiring to vote at any election as an absentee voter shall make application for an absentee ballot at any time before 3 p.m. on the Wednesday immediately preceding an election to the Clerk-Treasurer in a written request that includes the voter's name and residence address and the address to which the ballot is to be mailed, if different from the residence address.

(c) Late application for Absentee Ballot.

(1) Beginning on the Thursday preceding the election, a registered voter or the voter's duly authorized agent may apply for an absentee ballot (i) in person at the Town Office or (ii) by electronic means to the Clerk-Treasurer. If requested on election day, the application for absentee ballot must be received in a timely manner that allows for the absentee ballot to be delivered, cast and returned prior to the close of the polls on election day.

(2) An application for an absentee ballot shall be supplied to the voter or the voter's duly authorized agent.

(3) The application shall be made under penalty of perjury but without a formal oath.

(4) After review of the application, the Judges of Election may issue an absentee ballot to the voter or the voter's duly authorized agent.

(5) A qualified applicant for an absentee ballot may designate a duly authorized agent to pick up and deliver an absentee ballot under this subtitle. An agent under this section: (i) must be at least 18 years old; (ii) may not be a candidate on that ballot; (iii) may not be an

employee of the Town nor a Town elected official, except in the case of an immediate family member; (iv) shall be designated in writing signed by the voter under penalty of perjury; and (v) shall execute an affidavit under penalty of perjury that the ballot was: (A) delivered to the voter who submitted the application; (B) marked and placed in an envelope by the voter in the agent's presence; and (C) returned to the Judges of Election.

(d) Delivery of Ballots. If the applicant is a qualified voter the Clerk-Treasurer, Judges of Election, or duly qualified poll worker shall, as soon as practicable, deliver to him or her, at an address designated by him or her, an absentee voter's ballot and an envelope for the ballot.

(e) Record of Applications and Ballots

(1) The Clerk-Treasurer or Judges of Election shall keep a record of applications for absentee voters' ballots as they are received showing the date and time received, the names and residences of the applicants, and such record shall be available for examination by any registered voter.

(2) After approval of an application for an absentee ballot and upon the mailing or delivery to the applicant of an absentee ballot, the voter's record shall show the fact that an absentee ballot has been mailed or delivered, and the date on which the ballot was provided. No such voter shall be allowed to vote in person at any polling place.

(f) One Ballot to an Applicant. Not more than one absentee ballot shall be provided to any one applicant unless the Clerk-Treasurer or Judges of Election have reasonable grounds to believe that the absentee ballot previously provided has been lost, destroyed or spoiled.

(g) Form of Absentee Ballots. The ballots shall contain the words "Absentee Ballot" printed in large letters in a clear space at the top of each ballot. Underneath these words shall be printed the following warning: "Mark ballot by placing 'X' in the proper blank after each candidate or question. Do not erase or make any identifying marks."

(h) Counting of Absentee Ballots.

(1) The Judges of Election shall not open or unfold any absentee ballot at any time prior to the closing of the polls and the beginning of the count of the absentee ballots. The Clerk-Treasurer shall deliver to the Judges of Election any absentee ballots received. These absentee ballots shall not be opened or unfolded by the Clerk-Treasurer. Before

opening the envelopes containing the absentee ballots the Judges of Election shall note receipt of same on the voter record.

(2) At any time after the closing of the polls and not later than the count of the votes cast at the regular voting place(s) the Judges of Election shall proceed to count and certify the absentee ballots contained in the ballot envelopes, received by them prior to the closing of the polls.

(3) Any absentee ballot voted for a person who has ceased to be a candidate shall not be counted for such candidate but such vote shall not invalidate the remainder of such ballot.

(4) Whenever the Clerk-Treasurer or Judges of Election shall determine from proof or investigation that any person who has marked and transmitted or deposited in person with the Clerk-Treasurer or Judges of Election an absentee ballot, has died before election day, said Judges of Election shall not count the ballot of the said deceased voter. If at or prior to the time of such counting the Judges of Election shall not have determined that the absentee resident who marked a ballot has died before election day, said ballot shall be counted, and the fact that said absentee resident may later be shown to have been actually dead on election day shall not invalidate said ballot or said election.

Section 203. Canvassing within 50 Feet of Election Buildings

(a) No person shall canvass, electioneer, solicit votes or post any campaign material in any polling place or within a fifty (50) foot radius from the entrance and exit of the building closest to that part of the building where ballots are cast.

(b) A violation of this section shall be a municipal infraction, punishable by a fine of \$100.

Section 204. Filing of Disclosure Statement

(a) All elected or appointed Town officials and all candidates for election of Town offices shall file with the Clerk-Treasurer, each year, not later than 30 days prior to the regular Town election beginning with the regular election of 1975, a financial disclosure statement, signed under the penalty of perjury, setting forth any interest which they may have in any real property within the Town and any interest which they may have in any business entity doing business with the Town. Such a statement shall also be filed by a person appointed by the Town Council to fill a vacancy in any Town office before he or she assumes the office. The statement shall be kept on file at the Town office as public record for at least three years from the date of filing.

(b) Penalty. Failure to comply with the provisions of this Section shall constitute a municipal infraction and in the case of elected or appointed officials, removal from office. In the case of candidates for office, failure to comply with the provisions of this ordinance shall result in removal of their names from the election ballot.

Section 205. Promulgation of Regulations and Approval of forms

(a) Promulgation of Regulations. The Council may, from time to time, adopt, amend, or rescind by resolution such regulations as it deems necessary to further ensure the proper management of Town elections.

(b) Preparation of Forms. The Clerk-Treasurer shall, with the approval of the Council, create such forms as necessary to implement the provisions of this Chapter.